



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Depuydt et al)	
)	
Application No. 10/697,206)	Examiner: G. Graham
)	
Filed: October 30, 2003)	Group Art Unit 1744
)	
For: Brush Head For Toothbrush)	Confirm No. 2209

DECLARATION OF DAVID HOWLEY
IN SUPPORT OF REQUEST FOR INTERFERENCE

David Howley, a citizen of the United States, residing at 19 Catherine Avenue, Franklin, Massachusetts, 02038, U.S.A., hereby states that:

1. He is a patent attorney with a B.S.M.E. degree from the University of New Hampshire in 1984, a M.S.M.E. degree from Boston University in 1986, and a J.D. degree from Franklin Pierce Law Center in 1991.

2. He has been employed by The Gillette Company in Boston, Massachusetts as a patent attorney for 8 years from May 1997 to the present time.

3. He is the patent attorney who prepared and filed the following U. S. Patent Applications assigned to The Gillette Company in the United States Patent and Trademark Office:

Brush Head For Toothbrush
Application No. 09/425,423
Filed October 22, 1999

Brush Head For Toothbrush
Application No. 10/456,769
Filed June 6, 2003

Brush Head For Toothbrush
Application No. 10/697,206
Filed October 30, 2003

4. Exhibit 1 is a copy of the patent specification, claims and drawings of Application No. 10/456,423 filed in the United States Patent and Trademark Office on October 22, 1999.

5. Exhibit 2 is a copy of a combined declaration and power of attorney for Application No. 09/425,423. This declaration and power of attorney (Exhibit 2) was filed in the United States Patent and Trademark Office on February 23, 2000.

6. Exhibit 3 is a copy of the transmittal paper which he signed for Application No. 09/425,423. This transmittal paper (Exhibit 3) was filed in the United States Patent and Trademark Office on October 22, 1999.

7. Exhibit 4 is a copy of a filing receipt from the United States Patent and Trademark Office for Application No. 09/425,423.

8. Exhibit 5 is a copy of the patent specification, claims and drawings of Application No. 10/456,729 filed in the United States Patent and Trademark Office on June 6, 2003. On page 1, this application is identified as a continuation of U.S. Patent Application 09/425,423 filed 10/22/99.

9. Exhibit 6 is a copy of a combined declaration and power of attorney for Application No. 10/456,769. This declaration and power of attorney (Exhibit 6) was filed in the United States Patent and Trademark Office on June 6, 2003. Exhibit 6 claims the benefit under 35 U.S.C. 120 of pending Application No. 10/425,423 filed 10/22/99.

10. Exhibit 7 is a copy of the transmittal paper which he signed for Application No. 10/456,769. This transmittal paper (Exhibit 7) was filed in the United States Patent and Trademark Office on June 6, 2003. This transmittal paper is a request for filing a continuation application of Serial No. 09/425,423 filed on 10/22/99.

11. Exhibit 8 is a copy of a filing receipt from the United States Patent and Trademark Office for Application No. 10/456,769. This receipt (Exhibit 8) states that Application No. 10/456,769 is a continuation of Application No. 09/425,423 filed 10/22/99.

12. Exhibit 9 is a copy of the patent specification, claims and drawings of Application No. 10/697,206 filed in the United States Patent and Trademark Office on October 30, 2003. This application is identified as a continuation of U.S. Patent Application 09/456,769 filed on 06/06/03 which is a continuation of U.S. Patent Application 09/425,423 filed 10/22/99 on page 1.

13. Exhibit 10 is a copy of a combined declaration and power of attorney in Application No. 10/697,206. This declaration and power of attorney (Exhibit 10) was filed in the United States Patent and Trademark Office on October 30, 2003. Exhibit 10 is identical to Exhibit 2.

14. Exhibit 11 is a copy of the transmittal paper which he signed for Application No. 10/697,206. This transmittal paper (Exhibit 11) was filed in the United States Patent and Trademark Office on October 30, 2003. This transmittal paper is a request for filing a continuation application of Serial No. 09/456,769 filed on 06/06/03.

15. Exhibit 12 is a copy of a filing receipt from the United States Patent and Trademark Office for Application No. 10/697,206.

16. Exhibit 16 is a copy of the notebook pages submitted to the Gillette Patent Department by Joseph A. Depuydt on or about November 21, 1997. He reviewed and understood the subject matter of Exhibit 16 at the time that he prepared the patent application identified as Application No. 09/425,423 (Exhibit 1).

17. At the time he reviewed the notebook pages (Exhibit 16) submitted by Joseph A. Depuydt, he also reviewed a prototype of the invention made by Mr. Depuydt. The prototype which he reviewed is shown on pages 4-5 of Exhibit 16.

18. He has reviewed the interference count corresponding to Claim 1 of U. S. Patent 6,889,401 and to Claim 8 filed in U. S. Application No. 10/697,206 which recites as follows:

A powered toothbrush comprising
(1) a handle with a neck,

(2) a head mounted to said neck, said head having an exposed outer surface,

(3) a first tuft block mounted to a fixed section of said head, said first tuft block having bristles extending outwardly from said exposed outer surface,

(4) a first drive structure operatively connected to said first tuft block for moving said first tuft block in a plane generally parallel to said exposed outer surface,

(5) a second tuft block mounted within said fixed section of said head, at least a portion of said second tuft block being aligned with an opening in said exposed outer surface,

(6) said second tuft block having bristles extending outwardly from said exposed outer surface, and

(7) said second tuft block being mounted for moving in a direction generally perpendicular to said exposed outer surface within said opening.

19. He believes that each of the above identified applications, 09/425,423 (Exhibit 1), 10/465,769 (Exhibit 5), and 10/697,206 (Exhibit 9), supports all of the limitations of the interference count (Claim 8) for the reasons stated in the accompanying Declaration of Joseph A. Depuydt.

20. The undersigned further states that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date: September 1, 2005


David Howley